

Policy Type	Statutory
Function	Governance
Policy Owner	Chief Executive Officer
Policy Contact	Senior Governance Officer
Effective Date	8 September 2020

Purpose

A Public Interest Disclosure (PID) is a disclosure in the public interest, of information about alleged wrongdoing in the public sector. The purpose of this policy is to support persons in making public interest disclosures in an appropriate way and to provide guidelines on how public interest disclosures are managed by Burdekin Shire Council. This policy supports Council's commitment to an ethical culture by detailing how Council will manage PIDs.

Scope

This policy applies to Public Interest Disclosures (PIDs) made by councillors, employees and members of the public.

A disclosure can be made under this policy if:

- the person honestly believes on reasonable grounds that the information tends to show the conduct or other matter; or
- the information tends to show the conduct or other matter, regardless of whether the person honestly believes the information tends to show the conduct or other matter.

Definitions

Public Interest Disclosure (PID)

A PID is a disclosure of perceived wrongdoing by one or more persons within Council (**a public officer**) concerning an action or activity that the discloser reasonably believes constitutes:

- corrupt conduct;
- maladministration;
- a substantial misuse of public resources;
- a substantial and specific danger to public health and safety;
- a substantial and specific danger to the health or safety of a person with a disability;
- a substantial and specific danger to the environment; or
- any reprisal action (in relation to a previously made PID).

Any person may disclose information about:

- a substantial and specific danger to the health or safety of a person with a disability;
- a substantial and specific danger to the environment; or
- any reprisal action (in relation to a previously made PID).

Discloser	The person who makes a PID.
Proper authority	A public sector entity or a member of the Legislative Assembly.
Public officer	An employee of Council or a Councillor.
Subject officer/s	The person/s about whom a PID is made.

Policy Statement

Burdekin Shire Council is committed to ensuring appropriate avenues are provided for the disclosure of information about suspected wrongdoing within the organisation. Council aims to ensure practical and effective procedures are developed and embedded in the complaints framework and broader integrity functions of the organisation.

Burdekin Shire Council will facilitate:

- Good public administration promoting the public interest by encouraging the disclosure of wrongdoing.
- The proper assessment and, where appropriate, proper investigation and management of PIDs.
- The appropriate and timely referral of PIDs to external agencies (for example the Crime and Corruption Commission or the Queensland Police).
- Processes that ensure appropriate consideration is given to the interests of person/s who are the subject of a PID (subject officers).
- Adequate protections from reprisal action for all disclosers.

Roles and Responsibilities

The power to receive Public Interest Disclosures and to investigate or deal with them is delegated by Council to the Chief Executive Officer. The Chief Executive Officer, whilst retaining this power, has also sub-delegated this power to the Director Corporate and Community Services and the Senior Governance Officer. All public officers have a responsibility to be aware of Council's Public Interest Disclosure framework. Further details about roles and responsibilities in identifying and dealing with PIDs are outlined below:

Role	Responsibilities
Chief Executive Officer (CEO)	<ul style="list-style-type: none"> • appoint a PID Officer to be responsible for issues related to the management of PIDs, • receive and assess PIDs, • monitor the investigation and resolution of PIDs
Mayor	<ul style="list-style-type: none"> • receive and assess PIDs, and • liaise with the CEO and the PID Coordinator in relation to the management of PIDs.
Directors and Managers	<ul style="list-style-type: none"> • identify and receive possible PIDs, and • refer all identified PIDs to the CEO or the SGO in a timely manner
Senior Governance Officer (SGO) (PID Coordinator)	<ul style="list-style-type: none"> • implement and maintain Council's management program for PIDs, • raise awareness of PID policy and procedures, • provide clear guidance to Council employees about how to make a PID, • facilitate PID training, • implement a consistent and appropriate assessment procedure, • manage and coordinates support and protection for disclosers, • report and review data about PIDs received,

- refer PIDs to other entities and members of the Legislative Assembly, as appropriate,
- coordinate investigation and resolution of PIDs.

- Human Resources Coordinator (HRC)**
- identify any HR matters that may also be PIDs, and
 - refer all identified PIDs to the CEO or the SGO in a timely manner

How PIDs can be made

Disclosures should be made and dealt with in accordance with Council's PID Procedure. All complaints made through Council's complaints management system will be assessed against the PID criteria and may be identified as a PID. All Human Resources matters will be assessed against the PID criteria and may be identified as a PID.

Disclosures may be made in person, in writing, via phone and anonymously. Anonymous disclosures will be received and managed in the same way as identified disclosures and will not be rejected because they are anonymous.

Disclosures may be made to:

- Council's PID Coordinator (the Senior Governance Officer);
- the Chief Executive Officer;
- a Director;
- any Councillor (including the Mayor);
- for public officers – their direct supervisor or manager; or
- an officer who has the function of receiving or taking action on the type of information being disclosed. For example, an Environmental Health Officer where the information being disclosed is regarding a substantial and specific danger to public health or safety (PID Act s13(1)(c)).

From time-to-time, PIDs may be identified through other processes such as investigations (of Human Resources Issues for example) or via Internal Audit. These PIDs should be referred to the Chief Executive Officer, Director Corporate and Community Services or the Senior Governance Officer in a timely manner.

Investigation and Management of PIDs

Actions that Council may take as the result of a PID include:

- internal investigation of PID;
- referral of PID to another entity (e.g. Crime and Corruption Commission);
- provide an explanation to the discloser (e.g. where the discloser was not aware of all circumstances surrounding an action which appeared to them to be improper);
- resolving the matter managerially;
- take action to address issues through the implementation of new procedures or practices, or the development of new policies;
- internal audit of a particular unit.

Investigations of PIDs where carried out internally, will be conducted under the principles of natural justice, transparency of process, confidentiality, and procedural fairness.

Any disclosures that are required to be referred to another entity will be referred in accordance with legislative and administrative requirements in a timely manner. Disclosers will be advised of any such referral.

Where possible, Council will provide disclosers, with feedback regarding the status of their disclosure and its investigation. If Council decides not to investigate or deal with a PID, written reasons for this decision will be provided to the discloser.

All PIDs will be kept confidential, where possible. A person who recklessly breaches confidentiality requirements may be committing a criminal offence.

Any public officer providing false or misleading information may face disciplinary action in accordance with Burdekin Shire Council's Code of Conduct for Workers.

Dealing with reprisals

The risk of reprisal to the discloser will be assessed and reasonable steps will be taken to protect the discloser from reprisals.

Allegations of reprisal will be investigated. Any public officer found to have made a reprisal will face disciplinary action in accordance with Burdekin Shire Council's Code of Conduct for Workers.

The subject officer will be given the opportunity to respond to any allegations made in a PID. No action will be taken against the subject officer until and unless allegations are confirmed. Details of the subject officer will be kept confidential at all times.

Human Rights Considerations

Council will ensure that throughout all stages of the PID management process, proper consideration is given to the rights of disclosers and subject officers under the *Human Rights Act 2019*. Where any decision is made that may impact on a person's Human Rights, reasons for the decision will be provided to that person.

Recording and Reporting

Details of all PIDs will be entered into the State-wide PID reporting database, in accordance with the requirements of the Queensland Ombudsman's Office. PID data for Burdekin Shire Council will only be available to the PID Coordinator, Director Corporate and Community Services and the Chief Executive Officer.

Exceptions

In accordance with section 30 of the PID Act, Council may decide **not** to investigate or deal with a public interest disclosure if:

- the substance of the disclosure has already been investigated or dealt with by another appropriate process; or
- Council reasonably considers that the disclosure should be dealt with by another appropriate process; or
- the age of the information that is the subject of the disclosure makes it impracticable to investigate; or
- Council reasonably considers that the disclosure is too trivial to warrant investigation and that dealing with the disclosure would substantially and unreasonably divert Council resources; or
- another entity that has jurisdiction to investigate the disclosure has notified Council that investigation of the disclosure is not warranted.

Matters involving alleged corruption of the Chief Executive Officer should be handled under Council's *Complaints Regarding Corrupt Conduct by the CEO Policy* though matters may be initially raised as a Public Interest Disclosure.

Review Rights

Disclosers have the right to request a formal review of a decision not to investigate or deal with a PID.

Disclosers and subject officers have the right to request a review of the PID management process if they are unhappy with how a PID has been managed.

Requests for review should be in writing and be addressed to the Chief Executive Officer.

Disclosures to Journalists

In accordance with the *Public Interests Disclosures Act 2012*, a discloser may make a disclosure to a journalist if they have already made the same disclosure to Council as a proper authority and:

- Council have advised the discloser that the matter will not be investigated or dealt with;
- Council have investigated the disclosure and have advised the discloser that they intend not to take any action;
- Council have failed to notify the discloser within six (6) months of the disclosure being made whether or not the matter was to be investigated or dealt with.

Risk Management

This policy assists Council to mitigate the risks of wrongdoing within the organisation by stating its commitment to the proper handling of all PIDs. In accordance with Council's Enterprise Risk Management Framework, risk assessments will be carried out for all PID matters taking into consideration the risks to the discloser, the subject officer and to the organisation.

Legislation

Human Rights Act 2019

Public Sector Ethics Act 1994 (PSE Act)

Public Interest Disclosure Act 2010 (PID Act)

Local Government Act 2009

Crime and Corruption Act 2001

Procedure

Public Interest Disclosure Procedure.

Related Documents

Document Reference Number	Document Title
ECM 1068863	Burdekin Shire Council Code of Conduct for Workers
GOV-POL-0014	Complaints Regarding Corrupt Conduct of the CEO Policy
GOV-POL-0009	Burdekin Shire Council Fraud and Corruption Control Policy and Plan
ECM 1590381	Acceptable Request Guidelines for Councillors

Document History and Version Control

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